

DIRECTIVE NUMBER: 200-01-08

DATE: February 15, 2013

TO: All Components of the Department of Labor

FROM: Lana Gordon, Secretary of Labor

SUBJECT: Employee Taxability of State-Owned or Leased Vehicles

OVERVIEW

In general, an employee's personal (commuting) use of a state-owned or leased vehicle is a taxable fringe benefit. Commuting is defined as travel back and forth between the employee's residence and official workstation. Employers who allow employees personal (commuting) use of a vehicle generally are required to determine the value of the personal (commuting) use and include it in the employee's gross income. The value of the personal (commuting) use is generally subject to income, Social Security and Medicare taxes. The IRS currently utilizes the Annual Lease, Commuting and Cent-Per-Mile methods to determine the amount of fringe benefit income to include in employee wages. The requirements for the different valuation methods will be discussed in Appendix A.

PROCEDURES

K.S.A. 8-301 states that all publicly-owned vehicles are for official business only and **may not be used for private use, private business, or pleasure**. Kansas Administrative Regulation 1-17-2a states that a state-owned or leased motor vehicle shall not be used to commute between the employee's residence and the employee's official work station, except:

- (1)(A) When parking the vehicle at the official work station overnight subjects the vehicle to a high risk of vandalism.
- (1)(B) When the vehicle is used by an official or employee who is regularly called to duty after normal work hours in connection with law enforcement activities or dealing with emergencies which result from an act of God.
- (1)(C) For trip vehicles assigned to the traveler, on the evening of the work day immediately preceding the date of travel or the evening of the work day in which travel is completed.
- K.A.R. 1-17-2a also states when a state-owned or leased vehicle is authorized to be used for travel to an employee's place of residence under paragraphs (1)(A) or (1)(B), the "reasonable distance" one-way between the employee's official work station and residence shall not exceed 10 miles unless the 10-mile limitation is specifically exempted

by the Secretary of Administration or the Secretary's designee. For trip vehicles assigned to a traveler under paragraph (1)(C), "reasonable distance" shall be based on the determination that driving the vehicle home will not increase the total one-way trip mileage between the official workstation and the destination by more than 10 miles.

- Please note, Executive Order 03-04, which became effective on April 1, 2003 directs the Secretary of Administration to amend the applicable Kansas Administrative Regulation governing commuting in a state-owned or leased vehicle to further restrict such travel.

Effective April 1, 2003 and continuing until amendment of the Kansas Administrative Regulation governing commuting, the head of each executive branch state agency under the jurisdiction of the Governor shall prohibit commuting in state-owned or leased vehicles by employees of that agency except under the circumstances listed below:

(A) The vehicle is marked as a law enforcement vehicle and is used by an employee certified as law enforcement officer under the provisions of K.S.A. 74-5601 et seq.

(B) The vehicle is used to commute by an employee who is determined by the Secretary of Administration to be required to respond to reoccurring public safety emergencies under specified circumstances that make commuting in a state vehicle cost effective.

(C) The vehicle is assigned to the employee on a trip basis only and driving the vehicle to the employee's residence will not increase the total one-way trip mileage between the official workstation and the destination by more than 10 miles.

(D) The vehicle is assigned for use in the state vanpool program under K.S.A. 75-45a02 et seq.

(E) The vehicle is used to transport the Governor or other elected official when the Superintendent of the Highway Patrol determines using the state vehicle is a necessary security measure.

Kansas Administrative Regulation 1-17-2a(b)(1) and the Administrative Guidelines For Commuting Under Executive Order 03-04 allow field employees, such as inspectors, to commute between the field employee's residence and work sites in a state-owned or leased vehicle when the employee's residence is designated as the official work station. The employee's residence can be designated as the official workstation when over 50% of the employee's work time involves direct travel from his or her residence.

Please note that meeting the Kansas Administration Regulation or Executive Order 03-04 requirements to commute with the state-owned or leased vehicle does not exempt the employee from the IRS fringe benefit income reporting requirements. The employee would still need to report fringe benefits income for the commuting use of the vehicle unless the vehicle qualifies as a Non-personal Use Vehicle (listed in Appendix D) or the employee's residence meets the IRS's 'principal place of business' test discussed below.

Principal place of business test. Field employees **generally** do not report fringe benefit income for official travel between the employee's residence and work sites. To be excluded from the IRS's fringe benefit income reporting requirements, the employee's residence must qualify as the employee's "**principal place of business.**" A principal place of business is defined as a place of business which is used by the taxpayer for the administrative or management activities of a trade or business of the taxpayer if there is no other fixed location of such trade or business where the taxpayer conducts substantial administrative or management activities of such trade or business. If the employee works both out of his or her home (because it has been designated as the official work station) and has a state provided office, the employee's principal place of business needs to be determined by examining all the facts and circumstances.

Employees who use state-owned or leased vehicles and who park those vehicles overnight at their residences (commuting) than the commuting use of the vehicle is a taxable event to the employee. The personal (commuting) use is fringe benefit income and must be valued at one of the three methods approved by the IRS discussed in Appendix A unless the vehicle is listed in Appendix D or the employee's residence meets the "principal place of business test".

The value of fringe benefit income derived from the "personal use" of state-owned vehicles shall be determined from work sheets and data supplied by the employee (Appendices B & C) and reported within the payroll system.

Employees are to complete the form "Statement of Personal Usage for State Provided Vehicles" (an example is shown in Appendix B). At the end of each pay period for which there was "personal use" of a state-owned vehicle, this form is to be submitted to Fiscal Management.

Should the Cents-Per-Mile Valuation rate method be used, the form "Daily Travel Log" (see Appendix C) must accompany the form "Statement of Personal Usage for State Provided Vehicles". These forms must be received by Fiscal Management at the end of each pay period.

Computations on the form "Statement of Personal Usage for State Provided Vehicles" will be checked for accuracy and a memo sent to the Human Resources office before the end of the next pay period listing the names of the individuals and the dollar amount for each to be reported for that pay period.

Reports from the employee will be used to:

1. Record fringe benefit income chargeable to each affected employee.
2. Calculate and withhold from each affected employee's pay the Social Security, Medicare and retirement contributions due.
3. Calculate and withhold from each affected employee's pay the federal and state income tax due.
4. Calculate the employer's share of Social Security, Medicare, retirement, unemployment compensation and workers compensation contributions due.

5. Remit all withheld taxes and contributions to the appropriate authorities.
6. Report on each affected employee's W-2, the total fringe benefit income for the calendar year.

The following Kansas Department of Administration forms may be reproduced as needed. Before using the forms, you must update the information contained in the forms from the following Department of Administration Circular:

<http://www.da.ks.gov/ar/infocirc/fy2012/IC12p017.htm>

The forms can be found at the bottom of the following Web page:

<http://www.da.ks.gov/ar/infocirc/Archive/fy2005/ic05p023.htm>

Appendix A: <http://www.da.ks.gov/ar/infocirc/Archive/fy2005/ic05p023a.htm>

Appendix B: <http://www.da.ks.gov/ar/infocirc/Archive/fy2005/ic05p023b.pdf>

Appendix C: <http://www.da.ks.gov/ar/infocirc/Archive/fy2005/ic05p023c.pdf>

Appendix D: <http://www.da.ks.gov/ar/infocirc/Archive/fy2005/ic05p023d.htm>

Effective date: Immediately

References: Department of Administration Information Circular No. 12-P-017 & 05-P-23

Replaces: Directive 200-01-07

Questions: Dawn Palmberg, Chief Financial Officer (785) 296-5000 x2551

Lana Gordon, Secretary of Labor

Signature on file